

The record reviewed and considered by the Appeals Board for purposes of this appeal included the transcript of preliminary hearing proceedings on December 20, 1993, and the exhibits attached thereto, together with the pleadings filed of record in this case.

ISSUES

Claimant contends that the Administrative Law Judge erred in denying his application for medical treatment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Claimant seeks chiropractic treatment. Claimant acknowledges respondent has provided authorized medical treatment from several satisfactory medical doctors. However, claimant desires, in addition to the present authorized medical provider, a doctor of chiropractic. The Administrative Law Judge treated claimant's motion as one for a change of treating physician pursuant to K.S.A. 44-510(c)(1). Although there was some question in the mind of the Administrative Law Judge as to whether or not the 1993 amendments to the Workers Compensation Act dealing with a change of physician constitute a procedural or substantive change, for purposes of this case he determined it to be procedural and thereby applicable to this pre-July 1, 1993 accident. Claimant does not dispute this finding but rather argues that the medical evidence supports claimant's request for chiropractic treatment. Claimant contends that the Administrative Law Judge has the jurisdiction to order respondent to provide a list of three doctors of chiropractic when chiropractic treatment is shown to be reasonable, appropriate, and desired. Respondent points out that the authorized treating physician has not referred claimant for further chiropractic treatment and disputes claimant's allegation that the evidence is uncontradicted as to the appropriateness of such treatment.

The decision by the Administrative Law Judge denying claimant's application for authorization of an additional health care provider does not exceed the Administrative Law Judge's jurisdiction and is, therefore, not subject to review by the Appeals Board.

K.S.A. 44-551 limits the jurisdiction of the Appeals Board on appeals from preliminary hearing orders to review only those cases where it is alleged that the Administrative Law Judge has exceeded his or her jurisdiction in granting or denying the relief requested. K.S.A. 44-534a lists certain types of findings which may be considered jurisdictional and, therefore, subject to review. The disputed issue in this case is not one of those listed as jurisdictional and the decision does not exceed the authority of the Administrative Law Judge.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order by Administrative Law Judge James R. Ward, dated January 7, 1994, denying claimant's motion for authorization of additional physician is not subject to review and therefore remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of May, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Seth G. Valerius, PO Box 1453, Topeka, KS 66601-1453
James E. Benfer, PO Box 2217, Topeka, KS 66601
James R. Ward, Administrative Law Judge
George Gomez, Director